



# California Fair Political Practices Commission

April 26, 1989

Mrs. Myrna Erway  
City Clerk, City of  
San Clemente  
100 Avenida Presidio  
San Clemente, CA 92672

RE: Your Request for Advice  
Our File No. A-89-185

Dear Mrs. Erway:

You have requested advice on behalf Councilman Tom Lorch pertaining to the campaign disclosure provisions of the Political Reform Act (the "Act").<sup>1/</sup>

## QUESTION

Must an elected officeholder report on his campaign statement independent expenditures made out of personal funds?

## CONCLUSION

Independent expenditures made from personal funds by an elected officeholder to support or oppose other candidates or measures must be disclosed on the Allocation page of the Form 490, Candidate and Officeholder Campaign Statement--Long Form. In addition, if the independent expenditures total \$500 or more in a calendar year to support or oppose a single candidate or a single measure, a Form 465, Supplemental Independent Expenditure Report, must also be filed.

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<sup>1/</sup> Government Code Section 81000-91015. All statutory references are to the Government Code unless otherwise noted. Commission regulations appear at 2 California Code of Regulations Section 18000 *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Mrs. Myrna Erway  
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ANALYSIS

Elected officeholders are required to report all payments they make which are for political purposes. (Section 84211.) Section 82031 defines "independent expenditure" as follows:

An expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

When an officeholder makes independent expenditures out of personal funds to or on behalf of other candidates, officeholders, measures or qualification efforts, the payments must be reported in Part II of the Allocation Page contained in the Form 490. (Section 84211(m).) Such payments are not required to be reported on any other schedule. (See 1989 "Information Manual on Campaign Provisions of the Political Reform Act," Page 68, copy enclosed.)

If an officeholder makes independent expenditures totaling \$500 or more in a calendar year to support or oppose a single candidate or a single measure, he or she must file the Form 465, Supplemental Independent Expenditure Report. This form is filed in addition to the officeholder's regular campaign disclosure statements. Form 465 is filed at the same times and with each filing officer with whom the candidate supported or opposed or the ballot measure committee is required to file campaign statements (Section 84203.5.)

If you have any questions concerning this letter, please call me at 916/322-5662.

Sincerely,

Kathryn E. Donovan  
General Counsel



By: Mary Ann Kvasager  
Political Reform Consultant

cc: Mr. Tom Lorch

Enclosure



## CITY OF SAN CLEMENTE

FPPC  
Mar 28 1 07 PM '89

March 27, 1989

Fair Political Practices' Commission  
Technical Assistance and Analysis Division  
Post Office Box 807  
Sacramento, California 95804-0807

Subject: Request for a written opinion on method of filing a  
specific campaign expenditure for General Municipal  
Election held November 8, 1988

Councilman Tom Lorch, who was serving as Mayor at the time of the subject election, did a mass mailing of letters supporting one of the candidates and regarding some of the measures on the ballot. The letters and envelopes stated "Tom Lorch, Mayor."

During my review of the campaign statements filed with me on January 31, 1989, which covered the period the letters were mailed, I noted this campaign expenditure was not reported either by Councilman Lorch or the candidate. I questioned Mr. Lorch and was advised that he expended his own personal funds for this, without any consultation with the candidate, and that no funds were expended from his committee funds.

I called Mary Ann Kvasager, FPPC coordinator, to inquire about the proper procedures and forms to be used to report this expenditure. Mary Ann advised me that the expenditure should be reported on Form 465, a copy to be placed in the candidate's folder, and that the expenditure, if \$500 or more, should also be reported as an independent expenditure on the allocation page of Mr. Lorch's Form 490. I then advised Mr. and Mrs. Lorch of this ruling and provided them the applicable forms to be completed.

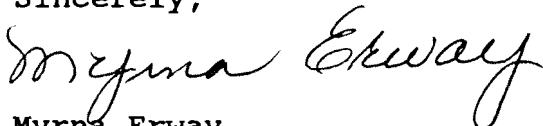
Mr. Lorch subsequently called the FPPC and was advised they only had to report this as an expenditure on Schedule E of Form 490. He did not obtain the name of the FPPC representative. He also called the Orange County Registrar of Voters and was advised to report it as an expenditure on Schedule E of Form 490.

Fair Political Practices' Commission  
March 27, 1989  
Page 2

I then called Mary Ann Kvasager again to tell her the information the Lorchs received and asked her to verify again the proper method for reporting this expenditure. She complied and reiterated her initial instructions were correct, i.e., reporting the expenditure on Form 465 and on the allocation page of Form 490. When I advised the Lorchs of Mary Ann's confirmation, they requested that the FPPC provide them a written opinion on the procedures and proper forms for reporting this expenditure. I am requesting that such a written opinion be sent to Councilman Lorch and myself. Mr. Lorch's address is 819 Ave. Salvador, San Clemente, CA. 92672.

I will appreciate an early reply so that this matter can be resolved and the correct filing completed.

Sincerely,

A handwritten signature in cursive script that reads "Myrna Erway".

Myrna Erway  
City Clerk

cc: Tom Lorch



## CITY OF SAN CLEMENTE

FPPC  
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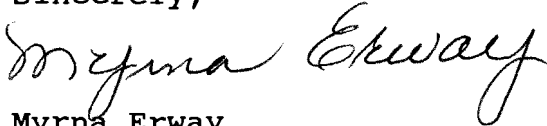
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Sincerely,

A handwritten signature in cursive script, reading "Myrna Erway".

Myrna Erway  
City Clerk

cc: Tom Lorch



# California Fair Political Practices Commission

March 30, 1989

Myrna Erway  
City Clerk  
100 Avenida Presidio  
San Clemente, CA 92672

Re: Letter No. 89-185

Dear Ms. Erway:

Your letter requesting advice under the Political Reform Act was received on 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

*Jeanne Pritchard*  
Jeanne Pritchard  
Chief Technical Assistance  
and Analysis Division

JP:plh